

WEST VIRGINIA LEGISLATURE

2023 REGULAR SESSION

Introduced

Senate Bill 608

BY SENATORS TRUMP AND DEEDS

[Introduced February 13, 2023; referred
to the Committee on the Judiciary]

1 A BILL to amend and reenact §61-7-2 of the Code of West Virginia, 1931, as amended, relating
2 to dangerous weapons; and correcting the partial list of items which are considered deadly
3 weapons.

Be it enacted by the Legislature of West Virginia:

ARTICLE 7. DANGEROUS WEAPONS.

§61-7-2. Definitions.

1 As used in this article, unless the context otherwise requires:

2 (1) "Antique firearm" means:

3 (A) Any firearm, including, but not limited to, a firearm with a match lock, flintlock,
4 percussion cap, or similar type of ignition system which was manufactured on or before 1898;

5 (B) Any replica of any firearm described in paragraph (A) of this subdivision if such replica
6 is not designed or redesigned to use rimfire or conventional centerfire fixed ammunition which is
7 no longer manufactured in the United States and which is not readily available in the ordinary
8 channels of commercial trade; and

9 (C) Any muzzle-loading rifle, muzzle-loading shotgun, or muzzle-loading pistol, which is
10 designed to use black powder, or black powder substitute, and which cannot use fixed
11 ammunition. For purposes of this subdivision, the term "antique firearm" shall not include any
12 weapon which includes a firearm frame or receiver, any firearm which is converted into a muzzle-
13 loading weapon, or any muzzle-loading weapon which can be readily converted to fire fixed
14 ammunition by replacing the barrel, bolt, breechblock, or any combination thereof.

15 (2) "Blackjack" means a short bludgeon consisting, at the striking end, of an encased piece
16 of lead or some other heavy substance and, at the handle end, a strap or springy shaft which
17 increases the force of impact when a person or object is struck. The term "blackjack" includes,
18 but is not limited to, a billy, billy club, sand club, sandbag, or slapjack.

19 (3) "Concealed" means hidden from ordinary observation so as to prevent disclosure or
20 recognition. A deadly weapon is concealed when it is carried on or about the person in such a

21 manner that another person in the ordinary course of events would not be placed on notice that
22 the deadly weapon was being carried. For purposes of concealed handgun licensees, a licensee
23 is considered to be carrying on or about his or her person while in or on a motor vehicle if the
24 firearm is located in a storage area in or on the motor vehicle.

25 (4) "Controlled substance" has the same meaning as is ascribed to that term in §60A-1-
26 101(e) of this code.

27 (5) "Deadly weapon" means an instrument which is designed to be used to produce
28 serious bodily injury or death or is readily adaptable to such use. The term "deadly weapon"
29 includes, but is not limited to, the instruments defined in subdivisions (1) through ~~(8)~~ (15),
30 inclusive, of this section or other deadly weapons of like kind or character which may be easily
31 concealed on or about the person. For the purposes of §18A-5-1a of this code and §61-7-11a of
32 this code, in addition to the definition of "knife" set forth in subdivision (9) of this subsection, the
33 term "deadly weapon" also includes any instrument included within the definition of "knife" with a
34 blade of three and one-half inches or less in length. Additionally, for the purposes of §18A-5-1a
35 of this code and §61-7-11a of this code, the term "deadly weapon" includes explosive, chemical,
36 biological, and radiological materials. Notwithstanding any other provision of this section, the term
37 "deadly weapon" does not include any item or material owned by the school or county board,
38 intended for curricular use, and used by the student at the time of the alleged offense solely for
39 curricular purposes. The term "deadly weapon" does not include pepper spray as defined in
40 subdivision (12) of this subsection when used by any person over the age of 16 solely for self-
41 defense purposes.

42 (6) "Drug" has the same meaning as is ascribed to that term in §60A-1-101(m) of this
43 code.

44 (7) "Firearm" means any weapon which will expel a projectile by action of an explosion:
45 *Provided*, That it does not mean an antique firearm as defined in subdivision (1) of this subsection
46 except for the purposes of §48-27-502 of this code.

47 (8) "Gravity knife" means any knife that has a blade released from the handle by the force
48 of gravity or the application of centrifugal force and when released is locked in place by means of
49 a button, spring, lever, or other locking or catching device.

50 (9) "Knife" means an instrument, intended to be used or readily adaptable to be used as
51 a weapon, consisting of a sharp-edged or sharp-pointed blade, usually made of steel, attached to
52 a handle which is capable of inflicting cutting, stabbing, or tearing wounds. The term "knife"
53 includes, but is not limited to, any dagger, dirk, poniard, or stiletto, with a blade over three and
54 one-half inches in length, any switchblade knife or gravity knife, and any other instrument capable
55 of inflicting cutting, stabbing, or tearing wounds. A pocket knife with a blade three and one-half
56 inches or less in length, a hunting or fishing knife carried for hunting, fishing, sports, or other
57 recreational uses, or a knife designed for use as a tool or household implement is not included
58 within the term "knife" as defined in this subdivision unless the knife is knowingly used or intended
59 to be used to produce serious bodily injury or death.

60 (10) "Metallic or false knuckles" means a set of finger rings attached to a transverse piece
61 to be worn over the front of the hand for use as a weapon and constructed in such a manner that,
62 when striking another person with the fist or closed hand, considerable physical damage may be
63 inflicted upon the person who was struck. The terms "metallic or false knuckles" includes any
64 such instrument without reference to the metal or other substance or substances from which the
65 metallic or false knuckles are made.

66 (11) "Nunchaku" means a flailing instrument consisting of two or more rigid parts,
67 connected by a chain, cable, rope, or other nonrigid, flexible, or springy material, constructed in
68 a manner that allows the rigid parts to swing freely so that one rigid part may be used as a handle
69 and the other rigid part may be used as the striking end.

70 (12) "Pepper spray" means a temporarily disabling aerosol that is composed partly of
71 capsicum oleoresin and causes irritation, blinding of the eyes, and inflammation of the nose,
72 throat, and skin that is intended for self-defense use.

73 (13) "Pistol" means a short firearm having a chamber which is integral with the barrel,
74 designed to be aimed and fired by the use of a single hand.

75 (14) "Revolver" means a short firearm having a cylinder of several chambers that are
76 brought successively into line with the barrel to be discharged, designed to be aimed and fired by
77 the use of a single hand.

78 (15) "Switchblade knife" means any knife having a spring-operated blade which opens
79 automatically upon pressure being applied to a button, catch, or other releasing device in its
80 handle.